

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General, 133.307 and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on 12-04-03.

The IRO reviewed therapeutic procedures, application modalities, office visits, electric stimulation, myofascial release, range of motion measurement, muscle testing, physical performance test, activities of daily living training, therapeutic activities and special report rendered from 12-09-02 through 08-21-03 that was denied based upon "V".

The Medical Review Division has reviewed the IRO decision and determined that the requestor **did not prevail** on the issues of medical necessity. Consequently, the requestor is not owed a refund of the IRO fee.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was not the only issue** to be resolved. This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 02-18-04, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14-days of the requestor's receipt of the Notice.

The following table identifies the disputed services and Medical Review Division's rationale:

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MARS	Reference	Rationale
1/22/03	97110	\$80.00 (2 units)	\$0.00	NO EOB	\$35.00	Rule 133.307 (g)(3)(A-F)	See rationale below. No reimbursement recommended.
2/5/03 through 7-21-03 (5 DOS)	99213	\$240.00 (1 unit @ \$48.00 X 5 DOS)	\$0.00	NO EOB	\$48.00	Rule 133.307 (g)(3)(A-F)	Requestor did not submit relevant information to support delivery of service. No reimbursement recommended.
2/5/03 through 7/21/03 (5 DOS)	99080	\$75.00 (1 unit @ \$15.00 X 5 DOS)	\$0.00	NO EOB	\$15.00	Rule 133.307 (g)(3)(A-F)	Requestor did not submit relevant information to support delivery of service. No reimbursement recommended.
TOTAL		\$395.00	\$0.00				The requestor is not entitled to any reimbursement.

**RATIONALE:** Recent review of disputes involving CPT code 97110 by the Medical Dispute Resolution section as well as analysis from recent decisions of the State Office of Administrative Hearings indicate overall deficiencies in the adequacy of the documentation of this code both with respect to the medical necessity of one-on-one therapy and documentation reflecting that these individual services were provided as billed. Moreover, the disputes indicate confusion regarding what constitutes “one-on-one”. Therefore, consistent with the general obligation set forth in Section 413.016 of the Labor Code, the Medical Review Division (MRD) has reviewed the matters in light of the Commission requirements for proper documentation.

The MRD declines to order payment for code 97110 because the daily notes did not clearly delineate the severity of the injury that would warrant exclusive one-to-one treatment.

This Findings and Decision is hereby issued this 29<sup>th</sup> day of April 2004.

Debra L. Hewitt  
Medical Dispute Resolution Officer  
Medical Review Division  
DLH/dlh

#### **NOTICE OF INDEPENDENT REVIEW DECISION**

**Date:** February 25, 2004

**RE:   MDR Tracking #:** M5-04-0993-01  
      **IRO Certificate #:**     5242

\_\_\_ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced case to \_\_\_ for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

\_\_\_ has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a Chiropractic physician reviewer who has an ADL certification. The reviewer has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for a determination prior to the referral to for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

#### **Clinical History**

According to the supplied documentation, it appears that the claimant injured her right shoulder while lifting and pulling at work on \_\_\_. The claimant was initially treated with passive and active therapy from a physical therapist and later by a chiropractor. A MRI performed on 10/17/2001 reveals a small partial tear along the bursal surface of the supraspinatus with mild inflammation and mild AC joint degeneration. The claimant continued therapy and had 2 shoulder injections. On 03/18/2002, the claimant underwent right shoulder arthroscopy, debridement and subacromial decompression. The claimant returned to passive and active therapy. The claimant was placed at MMI on 10/16/2002 with a 7% whole person impairment. Therapy continued to be documented at \_\_\_. The claimant had several more documented injections for pain relief. The documentation ends on 09/24/2003.

**Requested Service(s)**

Please review and address the medical necessity of the following services rendered from 12/09/2002 through 08/21/2003: therapeutic procedures, application modalities, office visits, electric stimulation, myofascial release, range of motion measurement, muscle testing, physical performance test, activities of daily living training, therapeutic activities, and special report.

**Decision**

I agree with the insurance company that the services rendered were not medically necessary.

**Rationale/Basis for Decision**

The documentation supports that the claimant received a compensable injury on \_\_\_\_ to her right shoulder. The claimant was treated with passive and active therapy. When conservative care failed, she received surgery to her right shoulder on 03/18/2002. The claimant returned to therapy shortly after her surgery. The therapy was continued until the documentation ended. The claimant was evaluated by on 10/16/2002 and he determined that the claimant was at MMI. She received a 7% impairment on 10/16/2002. At that time, passive and active therapy would not be considered reasonable or medically necessary. Since the claimant was placed at MMI, it would be reasonable to assume the claimant needed to continue her therapy with a home exercise program. The claimant's condition did not change much and throughout the course of her therapy during the dates in question this was well documented. The daily note on 12/11/2002 reported that the claimant stated her pain was a 4/10 with 10 being the worst possible pain. The daily note on 09/24/2003 reported that the claimant stated her pain was a 3/10 with 10 being the worst. Since the claimant was placed at MMI and the documentation the treating doctor presented supports that the claimant was not improving much. Without documented improvement, the therapy was no longer warranted and was not reasonable. Since it did not improve the claimant's pain any significant amount versus the amount of therapy rendered, it was not medically necessary. The only reasonable or medically necessary treatment rendered beyond the placement of MMI would have been a HEP, and since the claimant had underwent almost continuous therapy from her date of injury until 10/16/2002, she would very knowledgeable about the active modalities that could improve her condition.